



# Competition Act 1998

## 1998 CHAPTER 41

### PART I

#### COMPETITION

#### CHAPTER III

##### INVESTIGATION AND ENFORCEMENT

##### *Enforcement*

### **39 Limited immunity for small agreements**

- (1) In this section “small agreement” means an agreement—
  - (a) which falls within a category prescribed for the purposes of this section; but
  - (b) is not a price fixing agreement.
- (2) The criteria by reference to which a category of agreement is prescribed may, in particular, include—
  - (a) the combined turnover of the parties to the agreement (determined in accordance with prescribed provisions);
  - (b) the share of the market affected by the agreement (determined in that way).
- (3) A party to a small agreement is immune from the effect of section 36(1); but the Director may withdraw that immunity under subsection (4).
- (4) If the Director has investigated a small agreement, he may make a decision withdrawing the immunity given by subsection (3) if, as a result of his investigation, he considers that the agreement is likely to infringe the Chapter I prohibition.
- (5) The Director must give each of the parties in respect of which immunity is withdrawn written notice of his decision to withdraw the immunity.

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*Status: This is the original version (as it was originally enacted).*

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- (6) A decision under subsection (4) takes effect on such date (“the withdrawal date”) as may be specified in the decision.
- (7) The withdrawal date must be a date after the date on which the decision is made.
- (8) In determining the withdrawal date, the Director must have regard to the amount of time which the parties are likely to require in order to secure that there is no further infringement of the Chapter I prohibition with respect to the agreement.
- (9) In subsection (1) “price fixing agreement” means an agreement which has as its object or effect, or one of its objects or effects, restricting the freedom of a party to the agreement to determine the price to be charged (otherwise than as between that party and another party to the agreement) for the product, service or other matter to which the agreement relates.